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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,019	11/03/2003	William P. Delaney	LSI.82US01 (03-1233)	5855

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EXAMINER
SCHNEIDER, JOSHUA D

ART UNIT	PAPER NUMBER
2182	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/701,019	DELANEY ET AL.
	Examiner	Art Unit	
	Joshua D. Schneider	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _30 August 2006_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-21_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 8/30/2006 have been fully considered but they are not

persuasive.

2.   Applicant response to the independent claims under 35 U.S.C. 112, second paragraph, for

being indefinite, addresses the question of what is included in the action payload. The rejection

has now been more narrowly addressed to the implementation of the method. The indefiniteness

arises out of the fact that if no data is in the action payload, the zero data case, what the step of

creating said payload does. It is unclear whether this step still exists in the zero data case, as the

limitation then has no functional purpose. The question of what the claim includes has been

clarified below in the rejection.

3.   Applicant also attempts to distinguish the claims from the previous rejection by an

amendment to include a negative limitation to require that the execution step be accomplished

without translation. However, it is not found where in the Thurston reference the execution step

requires translation. A new rejection indicates that the silence of the reference on this matter

sustains the anticipation requirement.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

5.   Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

6.   With regards to claims 1, 8, and 15, it is not found in the specification as originally filed where there is a teaching of *executing* an action code without translation. It is not clear that applicant possessed this element of the claimed invention at the time of filing. It is also unclear why or how any translation would take place *at the time of execution*, as normally, any required translation is a step that occurs prior to receipt and execution. The specification clearly teaches transmission without interpretation (translation), but this is not what is being claimed.

7.   Claims 2-7, 9-14, and 16-21 are rejected for incorporating the same indefinite subject matter of the independent claims from which they depend.

8.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9.   Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10.   With regards to claims 1, 8, and 15, it is unclear weather an action data needs to be included in the action payloads. The claim seems to include necessitating providing action data as part of the communication sequence, but then later includes limitations stating that none of this data needs to be included or transmitted (zero or more). In the case that zero action data is required, it is unclear what if anything the step requires. The question arises whether the step of

creating an action payload must still exist, as it serves no functional purpose, but is instead action without result.

11.   It is also unclear in these claims because of the indentation use, what parts of the method are subsidiary to the other parts. It seems unlikely that the step of transmitting the script to the controller is part of the packaging of the command. It would seem that the packaging is a preparation step for transmission, and that the transmission is not a part of this preparation, but the logical successor to it. The same is true of the limitation that includes the step of communicating to the component. These steps should not then be indented to indicate that they are a part of the packaging method, but rather only so much as is required to show that they are part of the larger method declared by the preamble of the claim.

12.   Claims 2-7, 9-14, and 16-21 are rejected for incorporating the same indefinite subject matter of the independent claims from which they depend.

13.   All further rejections and objections are made in light of the specification as best understood in view of the previous objections and rejections.

Claim Rejections - 35 USC § 102

14.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15.   Claims 1, 2, 4-6, 8, 9, 11-13, 15, 16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0217358 to Thurston et al.

16.   With regards to claims 1, 8, and 15, Thurston teaches packaging a communication

sequence into a script by a method comprising (paragraph 29), providing said communication

sequence that is a specific set of actions and action data (paragraphs 34-39); for each of said

actions, creating an action header comprising an action code and one or more component specific

commands (paragraphs 40-43), and creating an action payload comprising zero or more of said

action data; transmitting said script to said controller (paragraphs 34-39); and communicating to

said component of said system by running said script by said controller by a method comprising:

providing said script to said controller (paragraphs 35-39); and for each of said action headers,

executing a command corresponding to said action code (paragraphs 35-39 and 19-52),

transmitting said one or more component specific commands directly to said component

(paragraphs 35-39 and 19-52), and transmitting said zero or more of said action data from said

action payload to said component (paragraphs 35-39 and 19-52). Thurston teaches, by silence

that no translation is occurring at the time of execution.

17.   With regards to claims 2, 9, and 16, Thurston teaches said packaging of said

communication is performed by a first computer system that is separate from said system

controlled by said controller (paragraphs 27-29).

18.   With regards to claims 4, 11, and 18, Thurston teaches said method of packing said

communication sequence further comprises: creating a header for said script (paragraphs 40-43),

said header comprising an identifier describing the specific component for which said script is

intended (paragraphs 40-43); and said method of communicating to said component of said

system by running said script by said controller further comprises, determining a descriptor of

said component (paragraphs 40-43), comparing said descriptor of said component to said

identifier contained within said header of said script (paragraphs 40-43).

19.   With regards to claims 5, 12, and 19, Thurston teaches said method of packing said

communication sequence further comprises: creating a header for said script (paragraphs 40-44),

said header comprising a compatibility list comprising one or more applicable revisions of

firmware on said specific component for which said script is applicable (paragraphs 44-47); and

said method of communicating to said component of said system by running said script by said

controller further comprises: determining a current firmware revision of said component;

comparing said current firmware revision to said compatibility list contained within said header

of said script (paragraphs 44-47).

20.   With regards to claims 6, 13, and 20, Thurston teaches said component is a hard disk

drive (paragraph 27).

Claim Rejections - 35 USC § 103

21.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

22.   Claims 3, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Application Publication 2003/0217358 to Thurston et al. in further view of U.S. Patent

6,789,157 to Lilja et al.

23.   With regards to claims 3, 10, and 17, Thurston teaches said method of packing said

communication sequence further comprises: creating a header for said script (paragraphs 40-43),

said header comprising a checksum (paragraph 42); and said method of communicating to said

component further comprises: reading said header of said script (paragraph 53), computing a

computed checksum of said script (paragraph 53), comparing said computed checksum to said

checksum contained within said header of said script (paragraph 53). Thurston fails to teach a

CRC. Lilja teaches that using a firmware update with a CRC instead of a checksum. It would

have been obvious to one of ordinary skill in the art at the time of invention to substitute the use

of CRC of Lilja for the checksum of Thurston in order to more completely check whether the

firmware has been corrupted during transmission.

24.   Claims 7, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Application Publication 2003/0217358 to Thurston et al. in further view of U.S. Patent

Application Publication 2002/0166027 to Shirasawa et al.

25.   With regards to claims 7, 14, and 21, Thurston fails to teach the firmware update script

package being used to update a RAID controller. Shirasawa teaches said controller is a RAID

controller (paragraphs 8 and 9). It would have been obvious to one of ordinary skill in the art at

the time of invention to use the firmware update script package of Thurston for updating RAID

firmware as taught by Shirasawa in order to homogenize the ability of each of the hard disk units

to increase process speed and decrease error occurrence.

Conclusion

26.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joshua D. Schneider whose telephone number is (571) 272-4158.

The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KIM HUYNH
SUPERVISORY PATENT EXAMINER

11/5/06